COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: March 17, 2010

OFFICE CORRESPONDENCE FILE NO. SH2226579

FROM: ERIC B. SMITH, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**
DEPUTY CARLOS NUQUES #[redacted]
DEPUTY KIMBERLY PONCE #[redacted]
DEPUTY JUAN ALVARADO #[redacted]
MAJOR CRIMES BUREAU

On August 19, 2008, at approximately 1820 hours, Major Crimes Bureau Deputies Carlos Nuques, Kimberly Ponce, Juan Alvarado along with Operation Safe Streets Bureau Deputies Francis Espeleta and Anthony Leonard shot Suspect Iribe after being fired upon by the suspect.

Deputies from Major Crimes Bureau and Operation Safe Streets Bureau were conducting an undercover surveillance of [redacted] in the city of [redacted] Location #1, in an attempt to locate Suspect Iribe, who was wanted for murder. During the course of the surveillance, they observed the suspect's [redacted] at the location. Deputies obtained information from residents of the front house on the property, and they confirmed Suspect Iribe lived in a rear house, but they did not believe he was at home.

A decision was made to contact the suspect's [redacted] in an effort to question her about Suspect Iribe's whereabouts. As the deputies approached the location on foot, wearing entry vests and identifying themselves as "Sheriff's Department," they encountered Suspect Iribe in the driveway. Suspect Iribe immediately ran west, down the driveway, to the rear of the property. The deputies ordered him to stop and they gave chase. After running a short distance, Suspect Iribe suddenly turned and fired two rounds at the pursuing deputies. Fearing for their lives and believing Suspect Iribe was trying to kill them, Deputies Leonard, Espeleta, and Alvarado fired at the suspect. The suspect continued to run west to the rear of the property. The pursuing deputies alerted Deputies Ponce and Nuques via radio, as they were holding rear containment positions at [redacted] in the city of [redacted] Location #2. They advised Deputies Ponce and Nuques that deputies had been involved in a shooting and the suspect was armed and was headed toward them.

As the suspect reached the rear wall separating the two locations, he stopped, took a "Weaver" shooting stance, and fired at Deputies Alvarado, Leonard, and Espeleta again. Suspect Iribe then jumped over the wall, entering the rear yard of Location #2. As he ran west toward the street, he fired at Deputies Ponce and Nuques. Fearing for their lives and believing Suspect Iribe was trying to kill them, they both returned fire, striking the suspect.

Suspect Iribe sustained several gunshot wounds to the upper torso. He was medically treated at Saint Francis Medical Center.

The suspect's .38 caliber revolver, containing four expended shell casings, was recovered at the scene.

On March 11, 2010, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MPP §§ 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Carlos Nuques #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Kimberly Ponce #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Juan Alvarado #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by all personnel in this incident were within Department Policy.

Eric B. Smith

Eric B. Smith, Commander

EBS:YLW/ylw

761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

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DATE: March 17, 2010

OFFICE CORRESPONDENCE FILE NO. SH2226579

FROM: ERIC B. SMITH, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**
DEPUTY FRANCIS ESPELETA #[redacted]
DEPUTY ANTHONY LEONARD #[redacted]
OPERATION SAFE STREETS BUREAU

On August 19, 2008, at approximately 1820 hours, Major Crimes Bureau Deputies Carlos Nuques, Kimberly Ponce, Juan Alvarado along with Operation Safe Streets Bureau Deputies Francis Espeleta and Anthony Leonard shot Suspect Iribe after being fired upon by the suspect.

Deputies from Major Crimes Bureau and Operation Safe Streets Bureau were conducting an undercover surveillance of [redacted] in the city of [redacted] Location #1, in an attempt to locate Suspect Iribe, who was wanted for murder. During the course of the surveillance, they observed the suspect's [redacted] at the location. Deputies obtained information from residents of the front house on the property, and they confirmed Suspect Iribe lived in a rear house, but they did not believe he was at home.

A decision was made to contact the suspect's [redacted] in an effort to question her about Suspect Iribe's whereabouts. As the deputies approached the location on foot, wearing entry vests and identifying themselves as "Sheriff's Department," they encountered Suspect Iribe in the driveway. Suspect Iribe immediately ran west, down the driveway, to the rear of the property. The deputies ordered him to stop and they gave chase. After running a short distance, Suspect Iribe suddenly turned and fired two rounds at the pursuing deputies. Fearing for their lives and believing Suspect Iribe was trying to kill them, Deputies Leonard, Espeleta, and Alvarado fired at the suspect. The suspect continued to run west to the rear of the property. The pursuing deputies alerted Deputies Ponce and Nuques via radio, as they were holding rear containment positions at [redacted] in the city of [redacted] Location #2. They advised Deputies Ponce and Nuques that deputies had been involved in a shooting and the suspect was armed and was headed toward them.

As the suspect reached the rear wall separating the two locations, he stopped, took a "Weaver" shooting stance, and fired at Deputies Alvarado, Leonard, and Espeleta again. Suspect Iribe then jumped over the wall, entering the rear yard of Location #2. As he ran west toward the street, he fired at Deputies Ponce and Nuques. Fearing for their lives and believing Suspect Iribe was trying to kill them, they both returned fire, striking the suspect.

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Concerning:

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Francis Espeleta #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Anthony Leonard #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by all personnel in this incident were within Department Policy.

Eric B. Smith, Commander

EBS:YLW/ylw

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MISCELLANEOUS DOCUMENTS

District Attorney Letter from Justice System Integrity Division, dated March 18, 2009
Admonition forms and photo of location referenced in deputy interviews
Copy of Weapons Training Qualification Shooting Record for Deputies
CD's of deputy involved shooting radio traffic, Crime Lab photos and interviews of Deputies and Witnesses

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COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

Addendum

UNIT:	Major Crimes Bureau/Operations Safe Streets Bureau
DATE:	Tuesday, August 19, 2008
TIME:	1820 hours
LOCATION:	[redacted] Blodgett Avenue, Downey
	[redacted] Barlin Avenue, Downey
URN#:	008-15329-0499-011
IAB#:	SH#2226579

On January 5, 2009 Sergeant Haynes met with Commander Eric Smith after he reviewed the Internal Affairs Bureau investigative case book relating to the deputy involved shooting by deputies from the Major Crimes Bureau Surveillance Apprehension Team, as well as Operation Safe Streets Bureau (OSSB). During the review, Commander Smith requested IAB interviews be conducted with Deputies Espeleta and Leonard, who were not originally interviewed by IAB due to the ongoing murder trial involving the suspect.

INVOLVED DEPUTY STATEMENTS:

Deputy Anthony Leonard

Deputy Anthony Leonard was interviewed on January 14, 2010, by Internal Affairs Bureau Sergeants Laura Haynes and Dinah Grote. He was accompanied by his ALADS representative, Attorney Helen Schwab. The following is a summary of the interview, which was digitally audio recorded.

OSSB Deputy Leonard stated his partner, Deputy Espeleta, received a telephone call to assist the Major Crimes Bureau Surveillance and Apprehension Team in contacting [redacted] the [redacted] of murder suspect Enrique Iribe, at the designated location. All involved personnel were briefed away from the target location regarding tactics and their approach in case suspect was at location.

> **IAB Note**: The target location had been watched for several hours by Major Crimes Bureau Deputy Alvarado, who ascertained Suspect Iribe was not at the location.

Deputy Leonard explained that he could not remember who was first upon approach to the location, either himself or Deputy Espeleta, but the remainder of involved personnel were behind them, all walking southbound along the sidewalk. Deputy Leonard explained that as they approached just north of target location driveway, Suspect Iribe was walking eastbound on driveway towards the deputies. Both suspect and deputies saw each other at the same time. Deputy Leonard remembers unholstering his weapon at the same time the suspect retreated westbound down the driveway, running back towards his house. As deputies ordered the suspect to stop, Suspect Iribe, in a continuous motion, withdrew a weapon from either his front pants pocket or waistband and, with his outstretched right arm, fired twice at the deputies.

Deputy Leonard said that after the suspect fried at them, he recalls himself and Deputy Espeleta, who was next to him, return gunfire at the suspect. Deputy Leonard recalls Deputy Marc King also in close proximity, as well as other deputies, but Deputy Leonard does not recall their positions or their names.

Deputy Leonard said the suspect continued running from the deputies westbound towards the rear of the residence and the deputies who were positioned on rear containment at the Barlin Street address. Deputy Leonard took cover behind a large inflatable pool and shot again at the suspect as he cleared a cluster of trees and the pool. Deputy Leonard recalls his partner somewhere off to his left and could see him in his peripheral vision, but was not exactly sure of his position.

Deputy Leonard explained he was aware of Deputy Marc King, who was armed with the shotgun and could not fire safely, and Deputy Espeleta, who was unable to return fire due to his position behind a truck parked in the driveway. Once the deputies lost sight of the suspect behind the rear residence, Deputy Espeleta pulled Deputy Leonard back behind the truck parked in the driveway. Deputy Leonard then heard additional gunfire and saw a muzzle flash from the southwest corner of the Blodgett Street lot. Deputy Marc King, who had positioned himself behind another vehicle west of where Deputy Leonard and Deputy Espeleta were positioned, quickly removed himself from the line of fire.

Deputy Leonard said he ran back eastbound down the driveway to the front of the location, put out emergent radio traffic, and ran to the Barlin Street address on foot because his radio car was taken by Deputy Espeleta.

Deputy Francis Espeleta

Deputy Francis Espeleta was interviewed on January 14, 2010, by Internal Affairs Bureau Sergeants Laura Haynes and Dinah Grote. He was accompanied by his ALADS representative, Attorney Helen Schwab. The following is a summary of the interview, which was digitally audio recorded.

Deputy Espeleta said he spoke with Deputy Marc King of the Major Crimes Bureau Surveillance and Apprehension Team by telephone, who requested their assistance in contacting [redacted] the [redacted] of murder suspect Enrique Iribe. Deputy Espeleta explained they met with the team away from the target location and briefed on tactics and their approach

Deputy Espeleta said involved personnel were briefed on why they were going to the location, what tactics would be deployed if the suspect was at the location, and deputy placement on the corresponding address on Barlin Street for rear containment in case suspect was there and attempted to flee. If the suspect was found inside the target location, all deputies were to back out, contain the area, and request the Special Enforcement Bureau.

Deputy Espeleta said that during the briefing Major Crimes Bureau Deputy Alvarado said he had been observing the location for several hours and was confident the suspect was not at the location. Additionally several vehicles had been stopped leaving and entering location to verify if the suspect had been seen at location and how long ago, and how many residents lived at the various houses on the lot. Specific deputies were responsible for radio traffic, as well as contacting Downey Police Department due to location in their area. Deputy Espeleta does not recall which deputies were responsible for radio traffic.

Deputies responded to the parking north of the target location's driveway. As deputies were walking southbound on the sidewalk, almost to the driveway of the target location, Deputy Espeleta saw the suspect walking eastbound toward them.

> **IAB Note**: Deputy Espeleta was asked how deputies were positioned approaching location. He did not recall if he was first, or Deputy Leonard, which Major Crimes Bureau deputies were present, or how they were positioned, one behind the other or side by side.

When Deputy Espeleta saw the suspect he immediately unholstered his weapon and the suspect ran back westbound down the driveway. The suspect, while running, removed his weapon from either his front pants pocket or waistband and, with his outstretched right arm, fired twice at deputies. Deputy Espeleta said he returned gunfire at the suspect and then took cover behind a truck parked in the driveway. He recalls Deputy Leonard off to his right, possibly behind the rear of the truck.

Deputy Espeleta recalls Deputies Marc King and Deputy Juan Alvarado with him after the first shooting with suspect, but unsure of their position. Deputy Espeleta said they no longer saw the suspect, but heard a volley of gunfire coming from the southwest corner of the location. He made the decision to run back to the radio car parked on Blodgett Street and get to the Barlin Street address as quickly as possible, where Major Crimes Bureau Deputies Ponce and Nuques were positioned. Deputy Espeleta was asked if there were windows facing south toward the driveway, but he does not recall.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI • Director

March 18, 2009

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, CA 90040

Re: JSID File #08-0536
LASD URN 008-15329-0499-055

Dear Captain Smith:

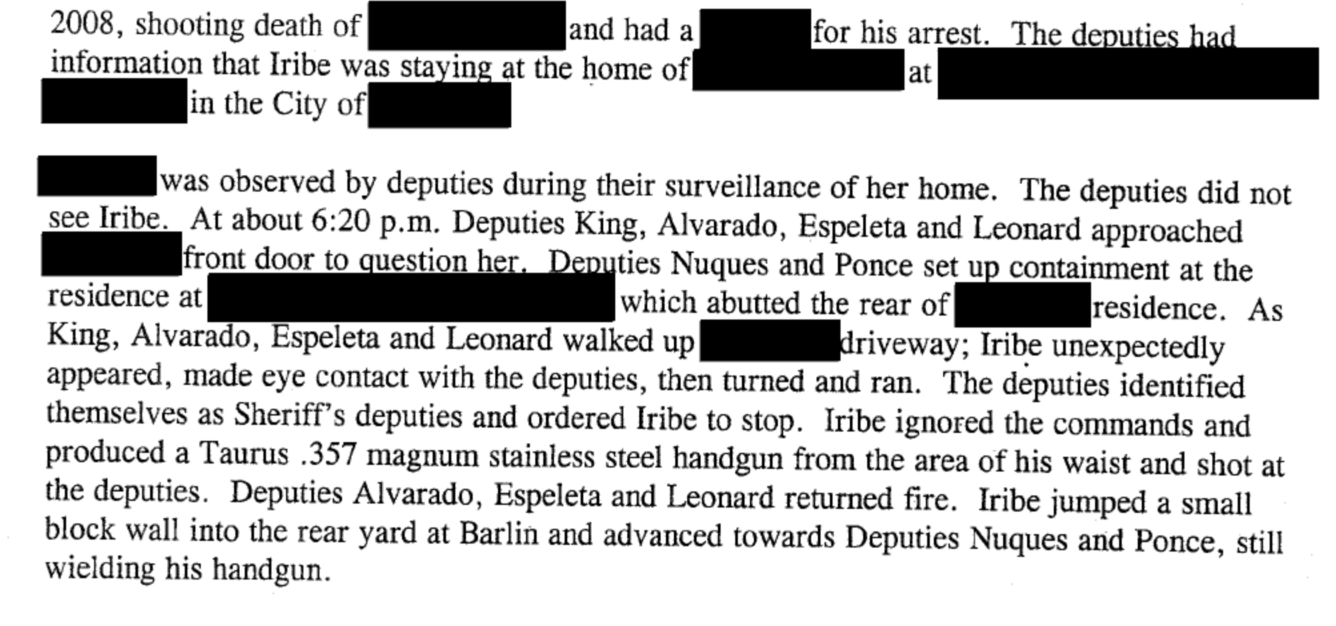
The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 19, 2008, non-fatal shooting of Enrique Iribe by Los Angeles County Sheriff's Department Deputies Juan Alvarado, Francis Espeleta, Anthony Leonard, Carlos Nuques and Kimberly Ponce. We have concluded that the deputies acted lawfully in self-defense and in the defense of others while attempting to capture a fleeing dangerous felon.

The following analysis is based upon reports prepared by the Los Angeles County Sheriff's Department (LASD) Homicide Bureau submitted to this office on December 1, 2008. The District Attorney Command Center was notified of the shooting at 7:22 p.m. on August 19, 2008. The District Attorney Response Team, consisting of Deputy District Attorney Daniel W. Baker and District Attorney Senior Investigator [redacted] responded to the scene. The Response Team was briefed on the circumstances surrounding the shooting and given a "walk through" of the scene. Compelled statements were not considered as part of this analysis.

FACTUAL ANALYSIS

On August 19, 2008, LASD Operation Safe Streets Deputies Anthony Leonard and Frances Espeleta were assisting LASD Major Crimes Bureau Deputies Juan Alvarado, Marc King, Carlos Nuques, and Kimberly Ponce locate Enrique Iribe. Iribe was a suspect in the July 19,

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2008, shooting death of [redacted] and had a [redacted] for his arrest. The deputies had information that Iribe was staying at the home of [redacted] at [redacted] in the City of [redacted]

[redacted] was observed by deputies during their surveillance of her home. The deputies did not see Iribe. At about 6:20 p.m. Deputies King, Alvarado, Espeleta and Leonard approached [redacted] front door to question her. Deputies Nuques and Ponce set up containment at the residence at [redacted] which abutted the rear of [redacted] residence. As King, Alvarado, Espeleta and Leonard walked up [redacted] driveway; Iribe unexpectedly appeared, made eye contact with the deputies, then turned and ran. The deputies identified themselves as Sheriff's deputies and ordered Iribe to stop. Iribe ignored the commands and produced a Taurus .357 magnum stainless steel handgun from the area of his waist and shot at the deputies. Deputies Alvarado, Espeleta and Leonard returned fire. Iribe jumped a small block wall into the rear yard at Barlin and advanced towards Deputies Nuques and Ponce, still wielding his handgun.

Deputies Nuques and Ponce heard the exchange of gunfire and took cover from the advancing Iribe. As Iribe approached, Deputies Nuques and Ponce shot at him until he stopped running. Iribe was arrested and his handgun was recovered. Paramedics treated Iribe at the scene for his injuries and transported him to St. Francis Hospital. Iribe was hit in the neck, arm and chest. It cannot be ascertained which deputy inflicted the wounds. His injuries were not life threatening and he was transferred to the Los Angeles County Men's Central Jail.

CONCLUSION

The use of deadly force is not unlawful when necessarily committed in attempting by lawful means to arrest a dangerous person. "A dangerous person is one who (a) poses a significant threat of death or serious bodily injury to the person attempting the apprehension or to others, or (b) has committed a forcible and atrocious felony." CALJIC 5.25. Further, the use of deadly force in self-defense is not unlawful when the person who uses the deadly force actually and reasonably believes that there is imminent danger that the other person will either kill him or her or cause him or her great bodily injury; and the use of deadly force is necessary to avoid death or great bodily injury.

There was an [redacted] for Iribe in the murder of [redacted] Iribe fled when confronted by the deputies. These factors alone provide legal justification for the use of deadly force. However, Iribe also shot at the deputies, providing independent legal justification for the use of deadly force.

We conclude that the use of deadly force against Enrique Iribe by Deputies Juan Alvarado, Frances Espeleta, Anthony Leonard, Carlos Nuques and Kimberly Ponce was in lawful self-

defense, in defense of others and necessary to capture a fleeing dangerous felon. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By Daniel W. Baker

DANIEL W. BAKER
Deputy District Attorney
(213) 974-3888

c: Deputy Juan Alvarado, [redacted]
Deputy Francis Espeleta, [redacted]
Deputy Anthony Leonard, [redacted]
Deputy Carlos Nuques, [redacted]
Deputy Kimberly Ponce, [redacted]